

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 95-628-E - ORDER NO. 95-1198✓
JUNE 22, 1995

IN RE:	Application of Cherokee County) ORDER GRANTING
	Cogeneration Corporation for a) CERTIFICATE OF
	Certificate of Environmental) ENVIRONMENTAL
	Compatibility and Public Convenience) COMPATIBILITY AND
	and Necessity for Construction of a) PUBLIC CONVENIENCE
	Major Utility Facility.) AND NECESSITY

On March 8, 1995, Cherokee County Cogeneration Corporation (Cherokee) filed an Application with the Commission by which Cherokee requested the issuance of a Certificate of Environmental Compatibility and Public Convenience and Necessity (Certificate) for the construction of a "major facility" pursuant to S.C. Code Ann. §58-33-10 et seq. (1976). Cherokee intends to construct, own and operate a natural gas-fueled, combined-cycle electric cogeneration facility (the Facility) in the vicinity of Gaffney, South Carolina. Because the Facility will have an installed generating capacity of approximately 80 megawatts (MW) (nameplate rating), it would be a "major utility facility" and the Commission must issue a Certificate prior to the construction of the Facility. S.C. Code Ann. §58-33-110 (1976) Cherokee's Application included the information required by Section 58-33-120(1) and included proof of service of a copy of the Application upon the governmental officials and proof of public notice as specified in Section 58-33-120(2) and (3), respectively.

On May 24, 1995, pursuant to S.C. Code Ann. §58-33-130(1)

(1976) and the Commission's rules and regulations, the Commission conducted a public hearing concerning Cherokee's Application. None of those parties or persons made parties expressly by statute made an appearance, and no other party or person sought to intervene or otherwise to participate in the certificate proceeding. The record indicates that none of the governmental agencies which Cherokee duly notified concerning the Application submitted substantive comments to the Commission. (Tr. p. 29) At the Commission's hearing, Robert T. Bockman, Esquire, represented Cherokee. Florence P. Belser, Staff Counsel, represented the Commission Staff. Cherokee presented the testimony of John C. Hooker, its President, and Lamar E. Priester, Jr., Ph.D., its expert environmental consultant. The record in this proceeding consists of the testimony of Mr. Hooker and Mr. Priester, Cherokee's Application, and various notices and orders which the Commission issued.

FINDINGS OF FACT

Based upon the evidence and materials in the record of this proceeding, the Commission makes the following findings of fact:

1. Cherokee is a corporation organized and existing under the laws of the State of Delaware and is general partner for Cherokee County Cogeneration Partners, L.P., a limited partnership under the Delaware Revised Uniform Limited Partnership Act. (Tr. p. 7)
2. Cherokee will construct, own, operate and maintain a natural gas-fueled, combined-cycle electric cogeneration facility in the vicinity of Gaffney, Cherokee County, South Carolina.

Integral to the cogeneration operations, Cherokee will construct and operate a hydrocarbon processing facility using a proprietary process which will include a thermal absorption process system. Cherokee's process will produce liquefied natural gas and natural gas liquids. Cherokee's hydrocarbon processing facility is designed to produce alternative motor fuels as encouraged by the Clean Air Act of 1990, the Intermodal Surface Transportation Act of 1991, and the Energy Policy Act of 1992. All steam produced by the hydrocarbon processing facility will be retained for use by Cherokee. Cherokee will also produce potable ice through its process. (Application, p. 2; Tr. pp. 8, 9 and 13)

3. As a result of the production of capacity and energy in its process, Cherokee will be a qualifying facility (QF) under the rules and regulations of the Federal Energy Regulatory Commission (FERC) promulgated pursuant to Section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). 16 U.S.C. §824a (1978) Cherokee has secured certification of its QF status pursuant to the procedures set forth in FERC's rules and regulations (QF No. 94-160-000, issued on September 19, 1994). See, 18 CFR §292.207(a). The cogeneration facility will have an installed generating capacity of approximately 80 megawatts (nameplate rating). (Application, p. 2; Tr. p. 8)

4. Under the terms of a Purchased Power Agreement, dated August 26, 1994, (the Agreement) Cherokee will sell and deliver exclusively to Duke Power Company (Duke) all the electric power and energy which the facility produces, net of the facility's own auxiliary electrical requirements, and Duke will purchase, receive,

use and pay for such electric power and energy. (Tr. pp. 8-9) The Commission approved the Agreement by its Order No. 95-26, issued in Docket No. 94-615-E on January 12, 1995.

5. Cherokee's hydrocarbon processing operation for the production of motor fuels requires substantial amounts of thermal energy. The most efficient means of providing the necessary thermal energy is by means of cogeneration of steam and electric power. For Cherokee's process, there is no other realistic and economical alternative. Furthermore, as a consequence of the Agreement with Duke, Cherokee is obligated to provide power and energy for the term of the Agreement. (Application, p. 3; Tr. pp. 10-11) The requirements of Cherokee's manufacturing process and the obligations of the Agreement form the basis of the need for the facility, which the Commission is required to determine pursuant to S.C. Code Ann. §58-33-160(1)(a)(1976).

6. Cherokee selected the site for its facility based upon a number of criteria, including access to Duke's transmission system, proximity to a major natural gas pipeline and a high degree of environmental compatibility. Upon selection of the site, Cherokee conducted an environmental assessment and a detailed review of the environmental impacts of the facility and its operation. The environmental assessment and impact studies address a number of parameters, including aesthetic (visual and noise), geological and seismic, air quality, water quality, terrestrial, aquatic and wildlife, waste disposal and fuel handling, climatological and demographic. (Application pp. II-1 through III-26; Tr. pp. 21-23) Based upon the assessment and studies, the installation and

operation of Cherokee's facility will have minimal environmental impact on the site and surrounding area. (Application, p. 3; Tr. p. 24)

7. The evidence shows that the minimal environmental impact of Cherokee's facility is fully justified in light of the available technology and the nature and economics of various alternatives for energy production. (Tr. p. 24)

8. Cherokee's cogeneration process and the facilities associated with the process utilize advanced technologies and equipment which will enable Cherokee to provide firm power efficiently and in a manner which meets or exceeds environmental standards without many of the costly environmentally protective equipment necessary for power production by other types of generation. The availability of power from Cherokee's facility will enhance system diversity for Duke with respect to the use of its resources. The technology and process for cogeneration are proved to be reliable within the industry and are fully capable of providing Cherokee the means to meet its obligations to provide electric power and energy under the Agreement. (Tr. p. 11)

9. In response to the distribution of its Application to state and local governmental agencies, Cherokee received only general permitting comments from several bureaus of the South Carolina Department of Health and Environmental Control. According to the evidence, none of those comments expressed material concerns with respect to the location and operation of the facility. None of the comments would require Cherokee to modify its intended plans nor did they impose additional conditions beyond those already

mandated and with which Cherokee will be able to comply to the extent they are applicable at the appropriate time prior to construction or operation. No state or local government agencies with environmental responsibilities have expressed specific concerns with respect to the construction and operation of Cherokee's facility. (Tr. pp. 12 and 24) The evidence is undisputed that Cherokee's facility can meet or exceed all required conditions for obtaining the required permits and approvals of environmental agencies. (Tr. p. 23)

CONCLUSIONS OF LAW

Based upon the findings of fact herein, the Commission makes the determinations and conclusions, as required by S.C. Code Ann. §58-33-160 (1976).

1. That the nature of Cherokee's hydrocarbon processing operations and Cherokee's obligations under the Agreement establish a proper basis of need for Cherokee's cogeneration facility.

2. That the probable environmental impact of the facility is minimal, and that such impact is justified, considering the state of available technology and the nature and economics of the various alternatives.

3. That the facility will serve the interests of system economy and reliability.

4. That there is reasonable assurance that the proposed facility will conform to applicable State and local laws and regulations.

5. That public convenience and necessity require the construction of the facility.

IT IS THEREFORE ORDERED:


1. That the Application of Cherokee County Cogeneration Corporation for a Certificate of Environmental Compatibility and Public Convenience and Necessity be, and hereby is, granted.

2. That Cherokee notify the Commission Staff of significant activities in the construction of the facility, beginning with the acquisition of the financing of the project.

3. That Cherokee file with the Commission the siting studies concerning the liquefied natural gas storage that are required to be made under the Federal Pipeline Safety Standards.

4. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)